

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
16 EHR 08190

CITY OF RALEIGH,

Petitioner,

v.

DIVISION OF WATER RESOURCES; JAY
ZIMMERMAN IN OFFICIAL CAPACITY AS
DIRECTOR OF DIVISION OF WATER
RESOURCES; DANNY SMITH IN OFFICIAL
CAPACITY AS REGIONAL SUPERVISOR OF
WATER RESOURCES IN RALEIGH REGIONAL
OFFICE; NORTH CAROLINA DEPARTMENT
OF ENVIRONMENTAL QUALITY,

Respondent.

SETTLEMENT AGREEMENT

The City of Raleigh ("the City") and Respondent North Carolina Department of Environmental Quality, Division of Water Resources ("DWR") hereby enter into this Settlement Agreement ("Agreement") in order to resolve a matter in controversy between them. This matter arose out of 1) the issuance of a Notice of Violation on April 29, 2016 by the DWR for seven sanitary sewer overflows from the City of Raleigh's Collection System (attached hereto as Exhibit A); and 2) the issuance of a Civil Penalty Assessment in the amount of three thousand nine hundred twenty-seven dollars (\$3,250.00) plus forty dollars and thirty seven cents (\$40.37) for enforcement costs ("CPA") (attached hereto as Exhibit B). The CPA was for alleged violations of Collection System Permit No. WQCS00002 and N.C. Gen. Stat. §143-215.1(a)(1), as described in Attachment A to the CPA.

Without any hearing of fact or law in the above-styled matter, IT IS THEREFORE AGREED
BY THE PARTIES THAT:

1. In order to avoid the cost and delay of further litigation, the parties have entered into this Agreement and have agreed that all parties have been correctly designated and that there is no question as to misjoinder or nonjoinder.
2. The City shall pay DWR \$2,100 plus \$40.37 in enforcement costs, an amount totaling \$2,140.37 ("Settlement Amount"), in full settlement of all incidents and violations described in the NOV and the CPA. The Settlement Amount shall be made in a lump sum payment due within thirty (30) calendar days of the execution of this Agreement. The payment shall be made by check and made payable to the "North Carolina Department of Environmental Quality" (or to "NC DEQ"), and delivered to the following address:

Steven Lewis
PERCS Unit
Division of Water Resources
1617 Mail Service Center
Raleigh North Carolina 27699-1617

3. Within fourteen (14) days of execution of this agreement by the parties, the City shall enter voluntary dismissal with prejudice of the City's Petition for Contested Case Hearing in the above captioned matter, 16 EHR 08190
4. It is understood and agreed that payments made or actions taken pursuant to the terms of this Agreement are not to be construed as an admission of liability by the City, and that this Agreement is a compromise of disputed claims.
5. The parties agree that the consideration for this settlement is the promises contained herein and that this Agreement contains the whole agreement between them.

6. This Agreement shall be binding upon the parties, their successors and assigns, upon execution by the undersigned, who represent and warrant that they are authorized to enter into this Agreement on behalf of the parties hereto.
7. This Agreement shall be binding upon the parties and is entered into knowingly, intelligently, and voluntarily.

**RESPONDENT NORTH CAROLINA DEPARTMENT OF ENVIRONMENT QUALITY,
DIVISION OF WATER RESOURCES**

By: 

Stephen Daniel Smith

Regional Supervisor, Raleigh Regional Office

North Carolina Department of Environmental Quality, Division of Water Resources

Date: 28 Sept. 16

PETITIONER CITY OF RALEIGH

By: 

Daniel F. McLawhorn

Associate City Attorney

Date: Sept 29, 2016